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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,331	04/12/2001	Hermann Winner	10191/1817	4347
26646	7590	06/22/2004	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			GIBSON, ERIC M	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/834,331	WINNER ET AL. <i>MW</i>	
Examiner	Art Unit	Eric M Gibson	3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 April 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,4 and 6-8 is/are rejected.
- 7) Claim(s) 3 and 5 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 21 April 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date 6. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Petition

1. The petition to withdraw the holding of abandonment for failure to reply has been GRANTED.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Gilling et al. (US005761629A).

a. As per claim 1, Gilling teaches a method for controlling a speed of a vehicle including detecting at least one vehicle traveling ahead within a radar detection range using a radar sensor (1, figure 5) and undertaking an acceleration limitation when in a neighboring lane provided for vehicles having a greater travel speed, a vehicle is moving at a lower speed than the vehicle to be regulated (column 7, lines 15-20, illustrated in figure 3B).

b. As per claim 2, Gilling teaches using relative velocity and range in the determination of the signal (column 5, lines 4-7).

c. As per claims 6 and 7, Gilling teaches that the neighboring lane can be a left or right lane depending on the practice of the country where the system is used (column 8, lines 1-7).

d. As per claim 8, Gilling teaches lifting the acceleration limitation in response to a change in conditions (column 7, lines 8-10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gilling in view of Prestl et al. (US006256574B1).

a. As per claim 4, Gilling teaches the invention as explained in the rejection of claim 1. Gilling does not teach that vehicle acceleration limitation only takes effect above a threshold speed. Prestl teaches a distance related cruise control system that includes disabling the system below a threshold speed (column 2, lines 52-55), in order to alert the driver that he must take manual control of the vehicle. It would have been

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obvious to one of ordinary skill in the art, at the time of invention, to only implement the system of Gilling above a threshold speed, in order for the driver to be in control during low speeds, as taught by Prestl.

Allowable Subject Matter

4. Claims 3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

a. As per claim 3, the prior art does not teach or reasonably suggest in combination the present invention including that the limiting value of the acceleration limitation has one of a zero or negative value when the vehicle in the neighboring lane is at one of a small or medium distance and where the limiting value has a positive value when the vehicle is at a greater distance as claimed.

b. Claim 5 would serve to further define the invention of claim 3 over the prior art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Andreas et al. (US006094616A) teaches a method of automatically controlling motor vehicle spacing. Richardson et al. (US006081762A) teaches a cruise control system. Pruksch et al. (US005955941A) teaches a method and device for controlling a velocity of a motor vehicle. Satonaka (US005929785A) teaches a control device for a vehicle that includes acceleration limitation based on

vehicles in an adjacent lane (see column 7). Asayama (US005161632A) teaches a tracking control device for a vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M Gibson whose telephone number is (703) 306-4545. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EMG



MICHAEL J. ZANELLI
PRIMARY EXAMINER